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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,621	09/17/2001	Jerry G. Hodsdon	67134-5040	6827

7590 06/13/2007

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EXAMINER

AHMAD, NASSER

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

06/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/954,621	HODSDON ET AL.	
	Examiner Nasser Ahmad	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 March 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 134-223 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 134-223 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/30/2007 has been entered.

Rejections Withdrawn

2. Claims 19, 21-26, 29, 44, 47-48, 50, 52, 54-55, 65, 67, 69, 71-73, 75, 77, 79-81, 84-85, 87-89, 92, 95-100, 102-108, 110-113, 115-133 are rejected under 35 U.S.C. 102(e) as being anticipated by Farrow (6149518) made in the Office Action of 10/31/2006 has been withdrawn in view of the amendment filed on 3/30/2007.
3. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farrow made in the Office Action of 10/31/2006 has been withdrawn in view of the amendment filed on 3/30/2007.
4. Claims 28, 57-62, 101, 109, 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrow made in the Office Action of 10/31/2006 has been withdrawn in view of the amendment filed on 3/30/2007.
5. Claims 49, 56, 63-64, 66, 68, 70, 74, 78, 86, 91, 93, are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrow made in the Office Action of 10/31/2006 has been withdrawn in view of the amendment filed on 3/30/2007.

Response to Arguments

6. Applicant's arguments with respect to claims 19, 21-29, 44, 47-50, 52, 54-64, 66-75, 77-81, 84-89, 91-93, 95-133 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 185-197 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 185, the negative phrase "but not in the labels" is found to be new matter for lack of support therefor and as it changes the scope of the claimed invention.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 134, 137-139, 142-147, 162, 164-165, 168-174, 176-177, 180-185, 188-189, 192-198, 200-202, 205-212, 214-215, 218-223 are rejected under 35 U.S.C. 102(b) as being anticipated by La Mers (4,454,180).

La Mers relates to a label sheet construction (190) comprising a liner sheet (126), a

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facestock sheet (192) adhered to the liner sheet, at least one first cut line (cut line surrounding label 146) through the facestock sheet but not the release coated liner sheet to form a facestock sheet first label releasably adhered to the liner sheet, at least one second cut line (cut line surrounding label adjacent to label 146) through the facestock sheet to form a facestock sheet second label releasably adhered to the liner sheet, the second label being spaced from the first label and separated therefrom a label-free waste portion of the facestock, and an elongate weakened line segments (196) in the facestock outside of and extending at least substantially from the first label to the second label. The elongate line lying in a defining line which is in the facestock sheet, which extends from one edge of the facestock sheet to another edge of the facestock sheet and which passes through the first and second labels. As shown in figures 16 and 18, the defining line in the first and second labels being free of the weakened facestock line segments

The phrase "capable of" has not been given patentable weight because it only requires the ability to so perform and is not deemed to be of positive limitation.

For claims 162, 184, 212 the phrase "being configurable" is found to be of positive limitation and hence, has not been given any patentable weight.

For claims 174, 198, the phrase "bending the liner sheet ...graspable condition" is directed to a method of using the product and is not germane to the issue of patentability of the product itself.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 135-136, 140-141, 148-161, 163, 166-167, 175, 178-179, 186-187, 190-191, 199, 203-204, 213, 216-217 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Mers.

La Mers, as discussed above fails to teach that the weakened line is spaced a short distance from the label by a short uncut line. It would have been obvious to one having ordinary skill in the art to modify La Mers by providing the weakened line to be a perforated line with uncut portions for facilitating removability of the labels while providing retention thereof.

As for claim 40, the label having a burst shape would have been obvious design choice for change of shape of the label.

Similarly, for the label to have a rectangular shape, it would have been obvious matter of design choice to modify La Mers by changing the circular shape to a rectangular shape.

For claim 148, the presence of a second line comprising third and fourth elongated weakened segments would have been obvious duplication of parts of the first line in La Mers.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nasser Ahmad 6/11/07
Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
June 11, 2007.